

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
DTV Consumer Education Initiative)	MB Docket No. 07-148
)	
)	

**RURAL CELLULAR CORPORATION'S
PETITION FOR EXPEDITED RECONSIDERATION
OR, IN THE ALTERNATIVE,
PETITION FOR LIMITED WAIVER**

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Dated: March 25, 2008

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To: The Commission

**RURAL CELLULAR CORPORATION'S
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Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, Rural Cellular Corporation ("RCC")¹ hereby submits this petition for expedited reconsideration of the FCC's *Report and Order* in the above-captioned proceeding.² RCC seeks reconsideration of Sections 54.418(a) and (b) of the FCC's Rules, 47 C.F.R. §§ 54.418(a) and (b), to the extent that the rules mandate that eligible telecommunications carriers ("ETCs") that receive federal universal service funds provide: (1) their Lifeline and Link-Up customers with notices about the digital television ("DTV") transition in the "monthly bills" or "bill notices" received by these customers; and (2) the DTV transition notice

¹ RCC is a full-service wireless company with strategic operations in rural communities in the Midwest, Northeast, Northwest and Southern regions of the U.S. covering approximately 6 million people. RCC's service area encompasses 38 rural service areas, 3 metropolitan statistical areas and a few partitioned major and basic trading areas. RCC and Verizon Wireless are currently seeking Commission approval of the transfer of control of RCC's licenses, authorizations and spectrum manager leases, and those of RCC's subsidiaries, to AirTouch Cellular, a wholly-owned indirect subsidiary of Verizon Wireless. *See Verizon Wireless and Rural Cellular Corp. Seek FCC Consent to Transfer Control of Licenses, Spectrum Manager Leases, and Authorizations*, Public Notice, WT Docket No. 07-208 (rel. Oct. 11, 2007).

² *See In the Matter of DTV Consumer Education Initiative*, Report and Order, MB Docket No. 07-148, FCC 08-56 (rel. Mar. 3, 2008) ("*Report and Order*"); *see also In the Matter of DTV Consumer Education Initiative*, Erratum, MB Docket No. 07-148 (rel. Mar. 7, 2008).

“...as part of an information section on the bill or bill notice itself or on a secondary document mailed with the bill or bill notice....”

RCC seeks modification of these new rules so that ETCs having to comply with the DTV transition notification requirements are afforded more flexibility in terms of the means by which notification regarding the DTV transition is delivered to their Lifeline and Link-Up customers. RCC would prefer to mail monthly postcards to its Lifeline and Link-Up customers that convey the same information about the DTV transition.³

Alternatively, pursuant to Section 1.3 of the FCC’s Rules, 47 C.F.R. § 1.3, RCC seeks a limited waiver of Sections 54.418(a) and (b) so that RCC can comply with the Commission’s new DTV transition notification requirements by mailing monthly postcards to its Lifeline and Link-Up customers.

I. BACKGROUND

In the Notice of Proposed Rulemaking (“*NPRM*”)⁴ that preceded adoption of the new DTV transition notification requirements, the Commission made reference to the May 24, 2007 Letter from the Honorable John D. Dingell, Chairman of the Committee on Energy and Commerce, and the Honorable Edward J. Markey, Chairman of the Subcommittee on Telecommunications and the Internet, in the U.S. House of Representatives, in which it was suggested that:

...[T]he Commission could require, as an interim measure, that telecommunications carriers that receive funds under the Low Income Federal universal service program [] notify each of their low income

³ See 47 C.F.R. §§ 54.418(a)-(b).

⁴ *In the Matter of DTV Consumer Education Initiative*, Notice of Proposed Rulemaking, MB Docket No. 07-148, FCC 07-128 (rel July 30, 2007) (“*NPRM*”).

customers of the digital transition and include such a notice in their required Lifeline and Link-Up publicity efforts...⁵

The Commission sought comment on the proposed DTV transition notification requirement applicable to ETCs that receive funds under the Low Income Federal universal service program and on “other initiatives that the Commission can and should undertake to educate the public on the DTV transition.”⁶

While the *NPRM* raised the issue of requiring telecommunications carriers that received funds under the Low Income Federal universal service program to provide notice to customers about the DTV transition, the FCC never indicated that it would mandate the means by which such notification is given, the frequency with which the message is conveyed by ETCs, nor the message that is provided and, as a result, RCC chose not to file comments or reply comments in this proceeding.⁷ However, due to the constraints imposed by the Commission’s new DTV transition notification rules, particularly with regard to the specific means by which notification regarding the transition must be given, RCC is now compelled to address these issues in this Petition.

Moreover, modifying the DTV transition notification rules to allow ETCs more flexibility in the manner in which this notification is provided would better serve the public interest. For example, as discussed *infra*, if RCC is allowed to comply with the

⁵ Letter from the Honorable John D. Dingell, Chairman of the Committee on Energy and Commerce, and the Honorable Edward J. Markey, Chairman of the Subcommittee on Telecommunications and the Internet, U.S. House of Representatives, to the Honorable Kevin J. Martin, Chairman, the Honorable Michael J. Copps, Commissioner, the Honorable Jonathon S. Adelstein, Commissioner, the Honorable Deborah Taylor Tate, Commissioner, and the Honorable Robert M. McDowell, Commissioner, Federal Communications Commission (May 24, 2007) (“Letter”).

⁶ *NPRM*, ¶ 17.

⁷ Though RCC chose not to file comments or reply comments in this proceeding, RCC still questions the Commission’s legal authority to compel ETCs to provide a prescribed notice regarding the DTV transition to their Lifeline and Link-Up customers and believes that notice about the DTV transition should only be required of sources participating in or facilitating the transition.

DTV transition notification requirements by providing monthly postcards to its Lifeline and Link-Up customers conveying the message prescribed by the Commission regarding the DTV transition, RCC would reduce its DTV consumer notification costs by 350%.⁸ RCC would then be able to use this cost savings – *i.e.*, a greater portion of the federal universal service funding it receives – towards the further enhancement and expansion of wireless service in rural areas, consistent with the universal service principles set forth in Section 254(b) of the Communications Act.⁹

As currently adopted, the DTV transition notification rules impose an enhanced, unnecessary and unproductive administrative and economic burden to RCC and other ETCs that is contrary to the public interest. Therefore, RCC seeks reconsideration of Sections 54.418(b)(i) and (ii) of the FCC’s Rules so that ETCs having to comply with the DTV transition notification requirements are afforded more flexibility in terms of the means by which notification regarding the DTV transition can be provided to their Lifeline and Link-Up customers.¹⁰

II. A POSTCARD OPTION IS A BETTER ALTERNATIVE TO THE BILL NOTICE AND BILL STUFFER OPTIONS ADOPTED BY THE COMMISSION

A. A Stand-Alone Postcard is More Noticeable than a Bill Message or Bill Stuffer

The Commission’s new DTV transition notification rules include a requirement that the notices “[b]e in clear and conspicuous print.”¹¹ The Commission’s stated

⁸ This figure does not reflect the estimated millions of dollars of additional cost savings in customer service costs due to the fewer number of calls that would have to be handled by that department.

⁹ 47 U.S.C. § 254(b).

¹⁰ RCC’s suggested modifications to Sections 54.418(a) and (b) are provided in Appendix A.

¹¹ 47 C.F.R. § 54.418(b)(1).

objective is to ensure that the information provided about the DTV transition to Lifeline and Link-Up customers is “noticeable.”¹² The postcard option adheres to the Commission’s “clear and conspicuous” requirement and, in fact, is more noticeable than any bill message or bill insert.¹³

A postcard is a stand-alone notice and is, therefore, much more likely to be noticed than any bill message or bill insert which can get overlooked in the pages of a long invoice. Moreover, the fact that this stand-alone postcard will be received monthly will serve to reinforce the Commission’s desired message to its target audience about the DTV transition.

B. A Postcard Notification Will Cause Less Customer Confusion and Generate Fewer Calls to Customer Care

The message the Commission aims to convey has no relevance to the information contained in a consumer’s telephone bill. In addition, the Commission has provided no reason as to why information regarding the DTV transition must be contained in a bill or bill notice, as opposed to a postcard. In fact, as has already been noted by other interested parties in this proceeding, the inclusion of information about the DTV transition in a bill notice or bill stuffer, as opposed to a stand-alone postcard, is likely to result in greater customer confusion, thereby generating significantly more questions about the DTV transition to the ETC’s customer care department – questions that would be better answered by the FCC, NTIA or other entities involved in the DTV transition.¹⁴

¹² *NPRM*, ¶ 53.

¹³ Appendix B contains a sample postcard created by RCC to comply with the Commission’s new DTV transition notification requirements.

¹⁴ *See e.g.*, Comments of Verizon, MB Docket No. 07-148 (Sept. 17, 2007) at 7-8; Comments of Qwest Communications International Inc. (Sept. 17, 2007) at 2.

C. The Postcard Alternative is Significantly Less Expensive for RCC than the Bill Message or Bill Stuffer Options

As noted earlier, RCC estimates that if it is allowed to comply with the DTV transition notification requirements by providing monthly postcards to its Lifeline and Link-Up customers conveying the message prescribed by the Commission, it would reduce the costs associated with this requirement by more than 350%. This percentage is based primarily on two factors.

First, for billing purposes, RCC is unable to segregate out its Lifeline and Link-Up customers from other customers. Bill messages and bill inserts are controlled by the system limitations of RCC's print vendor. Due to these limitations, RCC is only able to target bill messages and bill inserts based on customer billing address (*e.g.*, specific market, state or zip code). RCC is not able to target bill messages and bill inserts at a particular customer type or rate plan (*e.g.*, Lifeline or Link-Up). So, if the Commission's DTV notification rules remain unchanged, all RCC customers would have to receive the information about the DTV transition. This will result in substantially increased printing costs due to the additional text or bill stuffers currently required by Sections 54.418(a) and (b) that would have to be provided to all RCC customers, as well as the higher postage costs due to the increased weight of every RCC customer's bill.

Second, RCC's customer care department will be required to field more calls from customers with questions about the DTV transition, thereby further taxing a department that remains focused on resolving a variety of other customer service-related issues.

In contrast, the postcard option would allow RCC to segregate its Lifeline and Link-Up customers from its other customers, significantly reducing associated printing

and postage costs.¹⁵ In addition, because the number of recipients receiving information from RCC about the DTV transition would be substantially lower with the postcard option, RCC's customer care department would be able to maintain its focus on fielding consumer inquiries relating to telephone service. RCC estimates that the postcard option would allow the company to save millions of dollars in customer service costs due to the fewer number of calls that would have to be handled by that department.

III. THE COMMISSION'S DTV NOTIFICATION RULES MAY ALREADY PERMIT SOME ETCs TO USE A POSTCARD TO PROVIDE INFORMATION ABOUT THE DTV TRANSITION

Section 54.418(d) of the Commission's Rules states that "[i]f an ETC's Lifeline or Link-Up customer does not receive paper versions of either a bill or a notice of billing, then that customer must be provided with equivalent monthly notices in whatever medium they receive information about their monthly bill."¹⁶ Some Lifeline or Link-Up customers may already receive monthly notices about their phone bill by postcard. If this is true, then the Commission's Rules would already allow some ETCs to provide the requisite notification about the DTV transition by postcard. Therefore, allowing RCC to communicate with customers in the same manner should be permitted.

IV. IF THE COMMISSION DENIES RCC'S PETITION FOR RECONSIDERATION, RCC SEEKS A LIMITED WAIVER OF SECTIONS 54.418(a) AND (b)

Section 1.3 of the FCC's Rules states, in relevant part, that [a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause

¹⁵ Of course, the postcard option is in addition to the additional DTV transition notification initiatives that are now required as part of any Lifeline or Link-Up publicity campaigns conducted by the ETC between the effective date of the Commission's new rules and March 31, 2009. *See* 47 C.F.R. § 54.418(e).

¹⁶ 47 C.F.R. § 54.418(d).

therefore is shown.”¹⁷ In this case, if the Commission denies RCC’s petition for reconsideration, then the Commission should grant a limited waiver of Sections 54.418(a) and (b) to the extent necessary so that RCC can provide notice about the DTV transition to its Lifeline and Link-Up customers by way of a stand-alone postcard.

The postcard alternative still ensures that the Commission’s stated goal of ensuring that low-income households are repeatedly informed about the DTV transition, consistent with Sections 54.418(a) and (b). In addition, grant of a limited waiver to allow RCC to comply with the DTV transition notification requirements by sending postcards to its Lifeline and Link-Up customers will reduce RCC’s DTV consumer notification costs by at least 350%.¹⁸ RCC would then be able to use this cost savings towards the further enhancement and expansion of wireless service in rural areas, consistent with the universal service principles set forth in Section 254(b) of the Communications Act.¹⁹

V. CONCLUSION

If the FCC’s goal here, as it has stated, is simply to “reach low-income households – one of the consumer groups identified as most at risk of losing television service,”²⁰ then it really should not matter how that message is conveyed by ETCs, as long as the message is clear, conspicuous and reaches its intended audience monthly. From RCC’s perspective, the most efficient and effective means to convey the information mandated by the Commission about the DTV transition to its Lifeline and

¹⁷ 47 C.F.R. § 1.3.

¹⁸ Again, this figure does not reflect the estimated millions of dollars of additional cost savings in customer service costs due to the fewer number of calls that would have to be handled by that department.

¹⁹ 47 U.S.C. § 254(b).

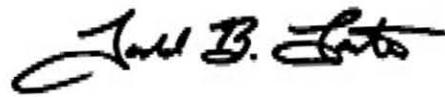
²⁰ *Report and Order*, ¶ 63.

Link-Up customers is to distribute postcards. Accordingly, consistent with the proposed modifications set forth in Appendix A, RCC petitions the Commission to modify Sections 54.418(a) and (b) of its rules to allow ETCs greater discretion to decide the best means to convey the Commission's message regarding the DTV transition to their Lifeline and Link-Up customers.

If the FCC is unwilling to make the modifications requested to Sections 54.418(a) and (b), then RCC seeks a limited waiver of the same rules so that RCC can comply with the Commission's new DTV transition notification requirements by mailing monthly postcards to its Lifeline and Link-Up customers that convey the information mandated by the Commission about the DTV transition.

Respectfully submitted,

RURAL CELLULAR CORPORATION



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Counsel to Rural Cellular Corporation

Dated: March 25, 2008

CERTIFICATION

I, Tina LaTorre Hiller, of Rural Cellular Corporation do hereby certify on this 25th day of March, 2008, that the representations made in this Petition are true and correct to the best of my knowledge and belief.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Tina LaTorre Hiller', is written over a horizontal line.

Tina LaTorre Hiller
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Dated: March 25, 2008

APPENDIX A

Sections 54.418(a) and (b) should be modified as follows:*

§ 54.418 Digital Television Transition Notices by Eligible Telecommunications Carriers

(a) Eligible telecommunications carriers (ETCs) that receive federal universal service funds shall provide their Lifeline or Link-Up customers with notices about the transition for over-the-air full power broadcasting from analog to digital service (the “DTV transition”) in the monthly bills or bill notices received by such customers, **or as a monthly stand-alone mailer (e.g., postcard, brochure)**, beginning 30 days after the effective date of these rules, and concluding in March 2009.

(b) The notice must be provided as part of an information section on the bill or bill notice itself or on a secondary document mailed with the bill or bill notice, **or as part of a monthly stand-alone mailer (e.g., postcard, brochure)** in the same language or languages as the **customer’s** bill or bill notice. These notices must:

- (1) Be in clear and conspicuous print;
- (2) Convey at least the following information about the DTV transition:
 - (i) After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.
 - (ii) Information about the DTV transition is available from www.DTV.gov and from www.dtv2009.gov or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes;

* All suggested modifications to this Section are highlighted in [blue](#) text.

APPENDIX B

IMPORTANT NOTICE

On February 17, 2009, full-power analog programming will end, and analog-only televisions may be unable to display full-power broadcast programming unless the viewer takes action.

At that time, a television receiver with only an analog broadcast tuner will require a converter box to receive over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products. Information about the DTV transition is available by going to www.DTV.gov. Information about the converter box program and subsidized coupons for digital-to-analog converter boxes is available by going to www.dtv2009.gov or by calling (888) DTV-2009.



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